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*Attorneys for Plaintiff and Counter-defendant
Epic Games, Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

Case No. 4:20-cv-05640-YGR-TSH

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,
v.

APPLE INC.,

Defendant, Counterclaimant.

**EPIC GAMES, INC.'S
ADMINISTRATIVE MOTION TO
SEAL PORTIONS OF EX.
EXPERT 1**

The Honorable Yvonne Gonzalez Rogers

Trial: May 3, 2021

1 Pursuant to Civil Local Rules 7-11 and 79-5(d) and (e), Plaintiff Epic Games, Inc.
2 (“Epic”) hereby moves the Court to issue an administrative order on the filing under seal of
3 certain portions of Epic’s Ex. Expert 1. Apple has requested additional sealing not reflected in
4 Trial Order No. 4 Re: (1) Administrative Motions to Seal; and (2) Partial Ruling on Expert
5 Objections (ECF No. 614). These additional portions sought to be sealed are highlighted in
6 blue, while the portions ordered sealed pursuant to ECF No. 614 remain highlighted in yellow.
7 In accordance with this Court’s Local Rules, a public redacted version of the Expert Written
8 Direct Examinations has been filed using the ECF system for the Northern District of
9 California.

10 Subsection (e) of Civil Local Rule 79-5 sets forth procedures that apply when a party
11 seeks to file information designated as confidential by the opposing party. Under
12 subsection (e), the submitting party’s “declaration in support of the Administrative Motion to
13 File Under Seal must identify the document or portions thereof which contain the designated
14 confidential material and identify the party that has designated the material as confidential (‘the
15 Designating Party’)”. Pursuant to subsection (e)(1) of Local Rule 79-5, the Designating Party
16 then has 4 days to file a declaration establishing that all of the designated material is “sealable”.
17 *See* Local Rule 79-5(e); *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir.
18 2006). Civil Local Rule 79-5 provides that documents, or portions thereof, may be sealed if a
19 party “establishes that the documents, or portions thereof, are privileged, protectable as a trade
20 secret or otherwise entitled to protection under the law”. Civ. L.R. 79-5(b).

21 The redacted portions, which are highlighted in the under seal version of the document
22 submitted herewith, quote or reproduce discovery materials that Apple has designated as
23 HIGHLY CONFIDENTIAL or CONFIDENTIAL pursuant to the Protective Order entered by
24 the Court, see Dkt. No. 274. The corresponding portions of written examination are identified
25 in the Declaration of M. Brent Byars submitted herewith. As required by Civil Local Rule 79-
26 5(e), Epic is serving Apple with this Motion and its Declaration so that it may submit the
27 required declaration establishing that the material is sealable.
28

1 Dated: May 17, 2021

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2 Christine Varney
3 Katherine B. Forrest
4 Gary A. Bornstein
5 Yonatan Even
6 Lauren A. Moskowitz
7 M. Brent Byars

8 Respectfully submitted,

9 By: /s/ M. Brent Byars
10 M. Brent Byars

11 *Attorneys for Plaintiff and Counter-defendant*
12 *Epic Games, Inc.*
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